

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

**IN RE OPTICAL DISK DRIVE
ANTITRUST LITIGATION**

CASE NO. 3:10-md-2143 RS
**ORDER REQUESTING
CLARIFICATION OF STIPULATION**

The Direct Purchaser Plaintiffs and the Settling Defendants have stipulated to changes in the schedule for final settlement approval and to certain revisions to the long form and short form class notices. The proposed scheduling changes, and the amendments to the notices necessary to reflect those changes, are acceptable. The stipulation also proposes to alter the class notice form to describe changes in this action effected by the recently-filed Third Consolidated Direct Purchaser Class Action Complaint (“TCAC”).

The parties’ intent is unclear. One possibility is that the scope of the settlement and the settlement class is unaffected by the TCAC—i.e., persons who purchased PlayStation videogame consoles, CD players/recorders, DVD players/recorders, and Blu-Ray disc players/recorders remain in the settlement class despite the exclusion of those devices from the TCAC. In that event, the reference to the amended complaint in the notices, at least as presently worded, creates confusion. If the parties believe it is necessary to mention the TCAC even though it does not affect the settlement class, the language should be revised to make clear that the exclusion of certain devices from the TCAC does not mean that persons who purchased such devices are outside the settlement class.

1 Another possibility is that the parties now intend that the settlement class be narrowed to
2 conform to the TCAC. In that event, the proposed revisions to the notices are inadequate, because
3 the definition of ODD Devices set out elsewhere in the notices continues to include devices
4 excluded from the TCAC.

5 Accordingly, the parties should submit a revised stipulation explaining their intent, and
6 including proposed revisions to the class notices that will eliminate the confusion.

7
8
9 IT IS SO ORDERED.

10
11 Dated: 4/25/13



RICHARD SEEBORG
UNITED STATES DISTRICT JUDGE